

**DIRKS et al**  
**Serial No. 10/772,413**  
May 17, 2007

**REMARKS**

Favorable reconsideration and allowance of this application are requested.

The withdrawal of the previous rejections of record is noted appreciatively by the applicants. Claims 1-22 remain pending in this application. As will become evident from the discussion which follows, all such claims are patentable over the new rejections advanced by the Examiner in the Official Action dated March 9, 2007.

Applicants note that the subject matter of independent claim 1 requires:

- Method for tying together objects, at least one of which is a bone part, using a surgical cable comprising the steps of laying the surgical cable made of a polymer fiber, having two end parts, around at least part of the object to be tied together,
- Connecting the end parts of the cable together,
- Exerting a force on the end parts bringing the cable under a tension required for tying together the objects with the help of a device, and
- Locking the tensioned cable against the influence of forces acting to counter the exerted force.

Similarly, the subject matter of independent claim 19, defines a method of fixing bone parts comprising the sequential steps of:

- Placing a surgical cable having end parts around the bone parts to be fixed,
- Connecting the end parts of the surgical cable together,
- Inducing with the help of a device a tension in the surgical cable sufficient to urge the bone parts together, and

- Maintaining the tension in the surgical cable sufficient to hold the bone parts together.

The Examiner asserts that the subject matter of independent claims 1 and 19 is anticipated (35 USC §103(b)) by Pierson et al (USP 5,797,915). Applicants respectfully disagree.

In this regard, the Examiner seems to have overlooked a significant feature of the present invention – namely the sequence of actions required by the claims. Specifically, in the process of the present invention as defined by independent claims 1 and 19, a sequence of steps must be performed. In one of the claimed steps, the end parts of the cable are connected together. Only *after* connecting the end parts together is the cable brought under tension by exerting a force. Because of this sequence of actions, the load of the cable is not fully exerted on the connected end parts which explains why the problems normally caused by knotted end parts are not encountered with the technique of the present invention.

To the contrary, in Pierson et al, the sequence is opposite to that required by the pending claims herein. That is, according to Pierson et al, in one step the cable is first placed under tension, and then only after tensioning is the cable retained in a retainer 108. (See column 3, lines 1-5 of Pierson et al). Therefore, Pierson et al cannot anticipate the present invention as defined by independent claims 1 and 19 and claims 2-4, 6, 9-15, 17-18 and 20-21 dependent therefrom.

Nor does Pierson et al render obvious the present invention when combined with the secondary references to Dunn et al and/or Crouch et al.

Specifically, applicants note that the end parts of the Dunn et al cable are **not** connected together. Instead, Dunn et al teach that an eye is provided at each end of the cable, and that each eye is **separately** secured by a screw. Thus, Dunn et al explicitly teach that the eyes at each end of the cable are not connected to one another.

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As such, an ordinarily skilled person would not consider combining Pierson et al and Dunn et al in the first instance and even if combined the present invention would not result. Hence, withdrawal of the rejection advanced against claims 5 and 7 under 35 USC §103(a) based on the combination of Pierson et al and Dunn is in order.

Crouch et al is even less pertinent. Specifically, even if it is assumed for the moment that one of ordinary skill in this art might consider using a textile winder with an air splicer of the variety disclosed Crouch to connect the ends of the cable in Pierson et al, such connection would only occur *after* the cable is placed under tension....i.e., since Pierson et al disclose that the cable is first placed under tension, and then only after tensioning is the cable retained in a retainer. Thus, the present invention would not be the "obvious" result of the combination of Crouch et al and Pierson et al. Withdrawal of the rejection advanced against claims 8, 16 and 22 under 35 USC §103(a) is therefore in order.

An early and favorable reply is awaited.

Respectfully submitted,

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